

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CLAY CALDWELL,	)	
Plaintiff	)	
	)	
vs.	)	Civil Action No. 07-726
	)	Judge Terrence F. McVerry/
LOUIS FOLINO, Superintendent, SCI-	)	Magistrate Judge Amy Reynolds Hay
Greene; DEAN GEEHRING, Mail	)	
Inspector Supervisor, SCI-Greene; DAN	)	
DAVIS, Superintendent Asst/Greivance	)	
Coordinator, SCI-Greene,	)	
Defendants	)	

**ORDER**

AND NOW, this 6<sup>th</sup> day of May, 2008, after the Plaintiff, Clay Caldwell, filed an action in the above-captioned case, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the parties until April 21, 2008 to file written objections thereto, and Plaintiff having filed objections [101] on April 30, 2008 which are without merit in so far as he has adduced no evidence showing exhaustion, and upon independent review of the motions and of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that Dkt. [101] is treated in part as an appeal from the Magistrate Judge's Order denying leave to amend and as such is denied;

IT IS FURTHER ORDERED that Plaintiff's summary judgment motion, Dkt. [71], is denied;

IT IS FURTHER ORDERED that summary judgment be entered *sua sponte* in favor of the Defendants;

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss [64] is dismissed as moot;

IT IS FURTHER ORDERED that Plaintiff's Motion for Preliminary Injunction [91] is dismissed as moot;

IT IS FURTHER ORDERED that Plaintiff's Motion for Appointment of Counsel [100] is dismissed as moot.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Judge

cc: Honorable Amy Reynolds Hay  
United States Magistrate Judge

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